

Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. See 86 Ill. Adm. Code 130.325. (This is a GIL).

February 4, 2003

Dear Xxxxx:

This letter is in response to your letter received in the Department on October 21, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

On June 25, 1999 we purchased equipment from AAA under a installment purchases agreement which falls under Reg. 130.325 Graphic Arts Machinery and Equipment Exemption. On this purchase installment contract we have been paying AAA Sales Tax which we recently found out that we should be exempt per the above regulation.

We will request from AAA a refund of the paid Sales Tax and suspend paying them any further Sales Tax on this installment purchase. Our questions are as followed: Are there any forms that we need to submit to AAA to show them that we are exempt and what form do they use to recapture the Sales Tax from the State of Illinois? Please let us know the correct procedure for this so that we can work with AAA to resolve this issue.

If you have any questions or need any additional information please do not hesitate to call.

In Illinois, there is an exemption for graphic arts machinery and equipment. The Department's rules regarding the Graphic Arts Machinery and Equipment Exemption are set forth at 86 Ill. Adm. Code 130.325, copy enclosed.

Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production. Taxpayers must certify the use of the equipment they are purchasing to their suppliers.

Section 130.325(b)(8) explains how the exemption certificates work. Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain the certificates in their books and records. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return.

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. See the enclosed copy of 86 Ill. Adm. Code 130.1501. Only persons who have actually paid tax to the Department can file a claim for credit. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. In other words, if a purchaser has paid tax to his supplier, only that supplier can file a claim for credit. The supplier must first refund tax money paid by the purchaser before proceeding with the claim. Once the supplier has done this, he or she must apply for the credit in the manner described in the regulation.

Suppliers are not required by law to apply for such credits; rather, this procedure is voluntary. Whether or not the supplier refunds the tax paid and files a claim for credit with the Department is a private matter between the supplier and the purchaser. As to any claim for credit filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.